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LOS ANGELES

# BAR BULLETIN

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*Joe*

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VOL. 24

JUNE, 1949

No. 10

## EFFICIENT PROBATE PROCEDURE

By Hon. Newcomb Condee\*



Judge Newcomb Condee

IN DEPARTMENT 4, at 2:00 P. M. on each court day, a probate calendar consisting of some one hundred to two hundred matters is called. At some calls, except for the judge and court attaches, there is no one in the courtroom, and rarely are there more than a dozen persons present.

The judge announces that the clerk will read the list of matters which the court will approve on the basis of the verified petition or affidavits submitted. He cautions those present to speak right up as the matters are called, if it is desired to make an objection. Otherwise, the petition is deemed granted as the clerk calls it.

If an objection is raised, the judge designates a time when it may be heard and the clerk notifies the attorney for the petitioner by mailing a postcard. No objections are heard forthwith and attorneys for estates are encouraged to remain away from the 2:00 o'clock call by the assurance that nothing is ever denied on that calendar. It is either granted as prayed, or it is continued.

### SPECIAL CALENDAR IS TIME SAVER

This so-called Special Calendar has now been in operation for three months and over nine thousand matters have appeared thereon. The average lost time by an attorney waiting to be heard on the call of a probate calendar is certainly as much as one-half hour. Local attorneys have therefore been saved at least 4500 hours, or 900 court days of lost time. Calculated at the most modest attorney's per diem, this translates into a saving

\*Judge of the Superior Court, Probate Master Calendar Department.

of nearly \$50,000.00. Actually, it probably amounts to much more than that.

It must be remembered that the 2:00 o'clock calendar consists of those matters in which no court appearance should be necessary. If all the necessary facts have been fully alleged in a verified petition, or if other essential facts have been presented by means of an affidavit, and provided that all technical requirements of notice have been properly attended to, the court is enabled to grant the petition as prayed under authority of Section 1233 of the Probate Code.

#### **FUNCTION OF COURT EXAMINERS**

It is obvious that the judge could not personally scan all of these papers and he must depend on a staff of examiners who work under the supervision of the probate commissioners.

On the call of each calendar the court is furnished with a complete set of coded notes, and in each estate he makes his order on the basis of the facts thus disclosed.

These examiners' notes are available to the attorneys two court days before the matter is up for hearing. The abbreviations used in these notes have been published in the Probate Court Policy Memoranda and one of the probate checkers is always available to explain these calendar notes to any interested person.

If the examiner's notes indicate that the matter is not ready for granting by the judge, the attorney has two days in which to supply any deficiency. Sometimes an account can be reconciled by merely explaining it to one of the commissioners. In other instances a supporting affidavit may be necessary. Occasionally, a petition for an extra fee may be questioned by the examiner and the attorney may be able to give a satisfactory explanation to the commissioner, who will then approve the fee as prayed.

If the attorney and the probate commissioner cannot agree on a matter, then the attorney may request a referral to the judge. The policy established is that a commissioner can say yes but cannot give a final no.

It is clearly understood between the judge and the commissioner that when matters are returned to the judge, the question will be approached from a fresh viewpoint and no effort will be made to support the commissioner's position. These questions

*(Continued on page 312)*

# AMERICA'S LEGAL TEN COMMANDMENTS

By Albert Brick of the Washington, D. C., Bar\*

OUT of our experience in the last decade and a half, the American people might well have learned 10 great truths in relation to the law. These might be called her ten legal commandments. They are not necessarily new truths; indeed, some are as old as the recorded history of a free people. Yet, they speak with new strength, new dignity, new meaning, to an America starting out on a bold, new path after her victory in the Second World War. These truths go to the very heart of America's system of private enterprise and of her constitutional Republic. They differentiate free America from Collectivist nations, America ruled by law from lands ruled by dictatorial men.

What are these ten legal commandments?

## 1. POWER MUST EXIST IN LAW AND MUST BE LIMITED BY LAW

"Where the law ends, tyranny begins," said William Pitt in 1770. We have seen that when power in government exists merely because of the capricious will of one man or a group of men and where it is uncontrolled, it tends to oppress. "Absolute power," says the Actonium dictum, "makes for absolute corruption." Limited power, power which is checked and balanced, makes for purity in government, for fiscal sanity and political health.

## 2. LAW MUST HAVE THE RESPECT OF THE PEOPLE

It is folly for a government to pass a law which is not held in high esteem by the overwhelming mass of the populace. One wit has remarked, "A law will fail when too many people believe that it must be enforced rather than observed." If the only way that it can be respected is through compulsion and enforcement, it will require police power, and where it requires police power, evasion of it will be attempted. The strongest law is the law in which the people most strongly believe.

\*Reprinted from the Congressional Record, extension of remarks of Senator John Sherman Cooper of Kentucky, as published in the September 1947 issue of *The Missouri Bar*.

### **3. LAW MUST BE AS MODERN AS THE NEEDS OF THE TIMES**

W. S. Gilbert said, "The law is the true embodiment of everything that's excellent."

But, in time, even excellent laws may become obsolete and must be changed. This does not mean that they must be changed precipitously; on the contrary, they must be changed only after careful deliberation.

Law, too, must be a dynamic instrument for the future. Said one observer, "Law should be an alliance of foresight and insight against short sight." But, the only thing that is changeless in the world is still change itself. Sidney Smith said, "When I hear a man talk of an unalterable law, I know that I am listening to an unalterable fool."

### **4. THE FORMULATION OF THE LAW MUST BE A CAREFUL, DELIBERATE PROCESS**

Aristotle said that the law is reason free from passion. Where laws are enacted or amended with rash haste, passion and the fever of the times may militate against their effectiveness and righteousness. This does not mean that legislatures must go at turtle pace, but rather that each proposed legislative item should be given the consideration which is its just due.

### **5. EXCESS LAW CAN HARM AS MUCH AS INSUFFICIENT LAW**

"Quantity production tends to cheapen everything, including the law." "The more laws, the less justice," goes an old Proverb. "The more corrupt the state, the more numerous the laws," said Tacitus. Congress or any State legislature can do no greater harm than by wildly enacting a stack of laws for which there is no need nor justification.

### **6. THE PRACTITIONERS OF THE LAW DESERVE THE RESPECT OF THE PEOPLE**

It is commonplace to jibe at the legal profession. "What would the devil say if he sat down between two lawyers?" asks the old gag. "Virtue in the middle!" Also, "A lawyer, like a wagon wheel, must be well greased." These jibes, though they may be justified for an insignificant minority of those who shame the legal profession by wearing its garb, are completely inap-

plicable and unjustified for the overwhelming mass of the practitioners of the law who respect the rights and privileges of their profession. To place the bar in disrepute is to place a grave handicap on the order of the Nation.

**7. THE OCCUPANTS OF THE BENCH DESERVE THE HIGHEST RESPECT OF THE PEOPLE**

Bugs Baer used to say that some politicians act as if they want "the best judges that money can buy." Yet, we know that where judges are for sale, either to foreign ideologies or to corrupt groups, the power of the law and the merit of the law are corrupted. The Good Book says, "Judge not according to appearances but judge righteous judgment." The voice of the judge should be the voice of the law speaking and should be so recognized by the people.

**8. LAW MUST BE EQUAL TO ALL—TO HIGH AND TO LOW**

In some circles of Government, there has developed a feeling that "the powers that be" are immune to the law and can break the law. Lawmakers must not be lawbreakers. "Be you ever so high, the law is still above you," an old saying goes.

"The voice of nations, and the course of things,

Allow that laws are superior to kings."

**9. THE SELF-RELIANCE OF THE PEOPLE IS MORE IMPORTANT THAN THEIR RELIANCE ON LAW FOR ECONOMIC GOOD**

Theodore Roosevelt said, "It is difficult to make our material condition better by the best laws, but it is easy to enough to ruin it by bad laws." Law is no panacea for the economic problems of the Nation; these must still be solved in the grass roots by the diligent efforts of an enlightened, courageous populace.

**10. A LAW-ABIDING PEOPLE IS A HAPPY PEOPLE**

There is no greater serenity nor peace of mind than that which comes to a free people which respects the law and because it respects the law, gladly observes it. In such a condition, the prosperity of a people, and the morale of a people can reach superb new levels.

These, then, are 10 legal commandments which America might follow toward the goal of a greater and ever sounder Nation.

## THE THREE LAWS OF PEACE

By Hon. William J. Palmer\*

### THE WORLD FEDERALIST AND HIS DREAM



Question: Is a world government, as envisaged by the World Federalists, necessary to effectively establish the three laws of peace?

At this point the writer must part from the company of his friends who advocate the immediate establishment of a planetary government endowed with fixed authority over fields of concern and activity, the exact delineation of which is yet unrevealed to the great majority of us. Of course, any compact that would set up the three laws of peace necessarily would establish a measure of world government. A world court, fortified by means of enforcing its judgments, would be, in itself, a limited government on an international scale. But such a compact and such a court would fall far short of the super-three-branch-government projected by the World Federalists.

### ISOLATING THE ONE VITAL QUESTION

Building a constitutional order to end international aggression and violence is such an immediately necessary task, and, comparatively, such a practical and feasible one, that it ought not to be complicated, confused, obscured or weighted down by the dreams, admirable though they are, of idealists who, impatient with the ways of creation, suddenly, by the often-failing magic of law and government, would transform such ignorance, selfishness, cowardice, dishonesty and cruelty as are prevalent in mankind into the enlightenment, courage, love, kindness and honor for which the idealist aims and which he must have for the kind of world that occupies his dreams.

Even the sincere reformer and benefactor sometimes is tempted by one of the demagogue's tricks—the trick of riding his pet

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\*Judge of the Superior Court for Los Angeles County. A very brief biographical sketch of Judge Palmer appears in 24 LOS ANGELES BAR BULLETIN, 233.

EDITOR'S NOTE: This is the third and concluding installment of this timely and instructive article. The first installment was published in 24 LOS ANGELES BAR BULLETIN, 233 (April, 1949); the second in 24 LOS ANGELES BAR BULLETIN, 262 (May, 1949).



movement or ambition into power by tying it onto a project that has become imperative, and hence commands the willingness of the people. Now is the time when, for all our destiny, we must totally isolate and answer one simple but dramatic question: Knowing and dealing with nations and people as they actually are, do we want to put an end to war between them? If we do, a way is open through a pact that will recognize and enforce the three laws of peace. We can, if we wish, continue the United Nations as an instrument of conciliation and as an international social, uplifters and toastmasters' club, and, through a new, clear, concise, unmistakable compact, directed to one vital object, we can establish a Constitutional Order for International Peace. Certainly, if we cannot do that, we cannot do the more extreme and difficult thing of creating a beneficent, efficient and honest super-world-government.

#### **WHICH IS FOUNDATION AND WHICH SUPERSTRUCTURE?**

The World Federalist says that we must have a federated world government to end war. This writer says that we must end war before we can hope to have the foundations of good will, intelligence, honesty, understanding and trust necessary for the kind of government that the World Federalist proposes. Every war intensifies the conditions that create war, engenders new hates, suspicions, and motivations of revenge, promotes the skills of dishonesty and deceit, numbs the finer sensibilities, abrades the veneer between savagery and civilization, and makes permanent peace more difficult of attainment, in spite of the fact that it leaves enlightened people with a greater desire for peace and a deeper conviction as to its necessity. Thus in World War I and its aftermath, World War II was in the making; and in World War II and its aftermath, World War III has been in the making.

#### **HAS CAPACITY FOR WORLD GOVERNMENT BEEN DEMONSTRATED?**

What is our capacity for planetary government of the kind proposed by the World Federalists?

The key to the answer to that question is found in the parable of the talents, wherein the lord and master says: "Well done,

*(Continued on page 315)*

## SUMMARY OF REPORT OF COMMITTEE ON TRAFFIC COURTS

The Bar Association's Committee on Traffic Courts recently filed its report with the Board of Trustees for the year 1948. Excerpts from this interesting report follow:

### LOCATION OF TRAFFIC COURTS IN THE CITY OF LOS ANGELES

During 1948 Judge Roger A. Pfaff, of the Los Angeles Municipal Court, and Mr. J. D. Lathrop, Traffic Court Commissioner, brought to the attention of the Traffic Courts Committee the crowded condition of the quarters in the City Hall now occupied by the traffic courts and the Traffic Fines Bureau.

It was emphasized that the matter of providing larger quarters for the traffic offices of the court has become one of urgent necessity. For example, by reason of increase in volume of traffic citations, the Traffic Fines Bureau has been unable to install a centralized index system to include branch office offenses. Thus, the judges cannot presently be furnished with a record of prior violations necessary to establish suitable and adequate penalties for second and subsequent offenses. Working space available for personnel also is extremely congested and no provision can be made for additional employees as needed.

During 1948 a number of temporary locations in the central traffic district, or adjacent thereto, were proposed, but no determination was made. Several of the buildings under consideration would require extensive remodeling in order to render them suitable as quarters for the traffic courts and Traffic Fines Bureau. Unfortunately, most of the buildings considered are in locations where parking facilities are either extremely limited or nonexistent.

It is understood that the new Municipal Court building may be located on the northwest corner of Broadway and Temple and that it will include quarters for the traffic courts and Traffic Fines Bureau. Serious question exists as to whether adequate parking facilities can be made available adjacent thereto.

It has been suggested that the traffic courts should be located elsewhere than in the central traffic district. One site suggested is adjacent to or in the vicinity of the offices of the Department of Motor Vehicles in Los Angeles.

The Traffic Courts Committee submits the following recom-

mentation: That the special committee of the Bar Association on location and design of the court buildings in Los Angeles give special consideration to the problem of providing adequate quarters for the traffic courts and the Traffic Fines Bureau at a location where adequate parking facilities will be available.

#### **SUGGESTIONS RECEIVED FROM TRAFFIC COURT JUDGES**

During June, 1948, the Committee on Traffic Courts addressed a communication to all traffic judges (about 70 in number) in the County of Los Angeles, requesting their participation in the work of the committee by submitting any particular problems or suggestions in reference to traffic courts for consideration and possible recommendation by the Traffic Courts Committee. Approximately a dozen judges submitted definite proposals, several suggesting amendments to the California Vehicle Code.

The Traffic Courts Committee referred numerous proposed amendments to the Vehicle Code to the state-wide Advisory Committee on Motor Vehicle Legislation. Among the proposals so referred were the following:

(1) That the Vehicle Code be amended to require the Department of Motor Vehicles to send out notices of expiration of operator's and chauffeur's licenses.

(2) That the traffic courts judges sitting in courts of record be given concurrent jurisdiction and equal authority with the Department of Motor Vehicles in respect to the suspension of drivers' licenses.

(3) That Vehicle Code Section 291 be amended to permit traffic courts to suspend a driver's license upon conviction of violating right of way of another motor vehicle or pedestrian.

(4) That a section be added to the Vehicle Code to provide that for the purposes of determining first, second or subsequent offenses a forfeiture of bail shall be deemed the equivalent of a conviction.

(5) That the present provisions of Section 307 of the Vehicle Code be revised. This section now provides for a 90-day suspension upon a first conviction of driving when under the influence of intoxicating liquor and suspension for one year upon a second or subsequent conviction of such offense. A proposal

*(Continued on page 303)*

## DIARY OF FIRST YEAR LAW STUDENT

By Richard Wincor\*

*November 1.*

Gosh, I still have to pinch myself to believe I'm really here. The assignments don't cover enough ground, so I'm taking Evidence, Conflicts, Creditor's Rights and Taxation along with my regular courses. Of course they are third-year subjects, but the Law to me is a vast tapestry that must be seen whole, as an integral unit. Making *Law Review* will be no problem. The other chaps seem to lack completely what I call the "Big Picture." They waste time quibbling over details of assigned cases, and by reducing the litigants to letters, calling them A, B, X, and such dreary stuff, they lose utterly the drama that exists in the human element of little people like ourselves caught up in something bigger than any of us, to coin a phrase. What a rotten shame. I'm not reading any cases in terms of A, or B, or X. The true way will be to see the Big Picture, and actually hear the cry of the vendor extolling his wares; to envision the bargaining of parties, the grantee stepping for that first breathless moment upon Blackacre, knowing it to be his castle; the fatal pride of the tortfeasor, the inner thoughts of flesh and blood people in the cases: Meadows, Goldstein, Schwimmer. This is the Law as it will be for me; no alphabet, but a live thing.

And what a brave new world of commerce stands revealed in these old pages! Exotic cargoes I had never heard of: Manila hemp, pipes of brandy, and particularly guano, which somehow captivates the imagination. It belongs in those celebrated lines of Keats:

"Manna and dates, in argosy transferred  
From Fez; and spiced dainties every one  
From silken Samarcand to cedared Lebanon."

\*Permission to print this article was kindly granted by the author and the Harvard Law School Record, the article having originally appeared in the March 23, 1948, issue of that publication.

The Law is not facts, and it is not dry justice. It is a new world of faery and romance. The examination in Criminal Law will be a challenge for those views, and I shall welcome it.

*February 22.*

There has been all too little time for keeping up this diary. Today, however, I learn that I made a 12 on the Criminal Law exam., which seems a bit low but has at least the virtue of stamping my thoughts as removed from the average. Perhaps I cited too much of the Kinsey Report. At any rate things will be different on the spring exams, where the instructors will have the chance to know me better.

A most delightful girl has come into my life. Her name is Renvoi and she goes to Portia Law School. Though somewhat gnome-like in appearance, she has an astute mind, and many are the sandwich dates I have enjoyed with her in the stacks. Renvoi shares my enthusiasm for the topic of guano, and with the second Ames trial near at hand I hope to get a case connected with that subject. I hope also to get through this Ames case without the fainting spell and nosebleed that overtook me in the first trial and prevented my winning a prize.

It seems hard to realize that the first year is so far along. Some of the chaps are worried about not making the grade, but I myself can hardly get excited about examinations. First things first, to coin a phrase. And for me, "first" things are those that make for understanding of the basic fabric of the law. Take Real Property for example. The instructor is a perfectly nice sort, prepped at a good school, belongs to the right clubs, and appears pretty sound. But all he can make out of Real Property is A and B again. What a rotten shame. In the spring perhaps, I may show him that the law of land is a study in mediaeval lore, and that the important things are not the mortgages and the purchase price, but the now silent banquet halls, the minstrels, and the proud barons and dead ladies.

July 15.

Gosh, I still have to pinch myself to believe I'm really here. It's hard to realize that this is Seagull's Nook, one of the most famous guano islands off the coast of Chile. Quaere, whether Renvoi's father would have gotten me this peachy job if he had known that my final average at the Law School was 10.

But it makes no difference now. I am here, bubbling with health, and I have found myself after a little groping. In that sense, the year of Law was certainly no waste. Furthermore it made me sharp. For example, when they put this precious cargo in sacks I shall know better than to break bulk if I am the bailee.

Yes, this is the life. Away on an exotic island, listening to the seagull's cry, and gathering each day this precious treasure until the sun, like a copper ball, declines in the west. Onward to silken Samarcand and cedared Lebanon.

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## Silver Memories

Compiled from the Daily Journal of June, 1924  
By A. Stevens Halsted, Jr., Associate Editor



A large number of Los Angeles attorneys are leaving this month to attend the joint meeting of the American and English Bar Associations in London in July. **Gabriel C. Duque, Gurney Newlin, Jefferson Chandler, Thomas Ridgway, Arthur Eckman, John C. McFarland, Judge Robert M. Clarke, Mrs. Oda Faulconer, W. S. Allen, Mae Carven, and Kemper B. Camp-**

**bell** are some of the local attorneys planning to attend the London meeting. Others who have announced their intention of going to the conclave are the following: **R. J. Bradner, William Jennings Bryan, Jr., G. C. de Garmo, John M. Marshall and Lyndol Young.**

\* \* \*

The practice of the federal prohibition enforcement department in granting permits to householders to make 200 gallons of fruit juice a year has been scored by Federal Judge Bledsoe. He declares the permits are merely a cloak to allow the manufacture of light wines.

\* \* \*

Transcontinental Air Mail service between San Francisco and New York is being inaugurated. The scheduled flying time westbound is 35 hours and eastbound 32 hours.

\* \* \*

Petitions to place eight initiative measures on the November ballot are being circulated. One of the most widely known petitions is the one proposing introduction of the Bible into the

school curriculum. Agricultural organizations are supporting a measure providing for legislative reapportionment to give better representation to rural districts in the State Senate. Other measures for which petitions are being circulated are a people's water and power act, a single tax measure and one to legalize professional boxing in California.

\* \* \*

Treasury officials estimate that the national debt will be reduced by \$500,000,000 during the present year. The public debt now totals roughly 21 billion dollars.

\* \* \*

While demonstrating how a revolver could have been used by the defendant on trial in a shooting case, Judge Demetrio F. Sotomayor of the Tijuana, Lower California, court of first instance, shot himself behind the left ear, inflicting a wound that caused death one hour later. Believing the court attaches had removed the cartridges from the revolver, the Judge placed the muzzle under his left ear and pulled the trigger. He is survived by his widow and two children.

\* \* \*

**W. M. Taylor**, Deputy County Counsel, has resigned to become Assistant Attorney of the State Railroad Commission. Mr. Taylor is a veteran of the World War, and was appointed Deputy Public Defender in January 1923 and Deputy County Counsel six months later.

\* \* \*

The Senate and House of Representatives have passed the Child Labor Amendment to the Constitution and it will now be submitted to the States for ratification. The measure is aimed at preventing children from toiling in mills and factories before they are eighteen years of age.

\* \* \*

The State Railroad Commission has ruled that airplanes carrying passengers and freight are common carriers, and therefore come under the purview of the Commission and its rules and regulations.

\* \* \*

Democratic leaders are convening in New York City for the Democratic National Convention. Alfred E. Smith plans to

*(Continued on page 320)*



## Report of Committee on Traffic Courts

*(Continued from page 297)*

was received that the judge of a court in which any person pleads guilty or is convicted of a violation of Section 502 be authorized to recommend to the Department that a restricted license be issued to such person during the period of suspension required in Section 307, and that the Department should comply with any such recommendation.

All of the foregoing proposals were considered by the Advisory Committee on Motor Vehicle Legislation, and all were rejected except number (4).

The Traffic Courts Committee considered certain additional proposals as follows:

(1) That a municipal court judge should not be permitted to accept assignment to the traffic court unless upon prior agreement he will serve continuously in such court for a period of not less than nine months.

(2) That the Municipal Court in San Pedro be supplied with the record of prior offenses, similar to the record maintained in Division 29 in the Los Angeles City Hall.

A procedure is being developed whereby all traffic citations to be heard in municipal courts will be cleared through the Traffic Fines Bureau for notation of prior offenses. Additional equipment to effect this procedure has been purchased and delivered. The Traffic Fines Bureau, however, cannot install or operate the same until additional floor space is obtained in new quarters.

### ADDITIONAL PROPOSALS STUDIED

The Traffic Courts Committee, upon a review of all of the proposals submitted, did not deem it advisable or necessary to submit any specific recommendations to the Board of Trustees, except that traffic court committees appointed in the future establish close contact with all traffic judges in order to review problems which the latter may submit.

### STATISTICAL REPORT OF TRAFFIC CASES AND AMOUNT OF TRAFFIC FINES AND FORFEITURES, LOS ANGELES MUNICIPAL COURT

The following table includes all traffic cases handled by the several divisions of the Municipal Court of the City of Los Angeles including traffic cases arising under city ordinances as well as under the Vehicle Code.

**MUNICIPAL COURT, CITY OF LOS ANGELES  
VOLUME OF TRAFFIC AND MOTOR VEHICLE CASES  
ALSO AMOUNT OF FINES AND FORFEITURES**

**Comparison With Prior Years**

		Number of Cases		
		Traffic and Motor Vehicle		Total
		City	County	
Fiscal year	1942-43.....	312,960	3,792	316,752
Fiscal year	1944-45.....	380,580	2,727	383,307
Fiscal year	1946-47.....	631,701	4,012	635,713
Fiscal year	1947-48.....	663,072	2,214	665,286

**MUNICIPAL COURT, CITY OF LOS ANGELES  
INCREASE IN FINES AND FORFEITURES  
TRAFFIC CASES**

	Fines	Forfeitures	Total
Fiscal year 1942-43.....	\$ 534,429.71	\$ 917,577.56	\$1,452,007.27
Fiscal year 1944-45.....	735,875.35	910,574.90	1,646,450.25
Fiscal year 1946-47.....	1,036,928.63	2,256,840.00	3,293,768.63
Fiscal year 1947-48.....	1,265,070.23	2,577,147.96	3,842,218.19

**SUMMARY**

The Committee directed particular attention to the continuing and anticipated increase in volume of traffic citations. Further, for needed provisions for enlarged facilities for the conduct of the work of the Traffic Courts and for a suitable location of the Traffic Fines Bureau to meet the needs of the motoring public.

The Association's Committee on Traffic Courts for 1948 was composed of the following individuals.

J. ALLEN DAVIS, <i>Chairman</i>	EDWARD C. JONES
WILLIAM H. BRAINERD	WILLIAM J. D. LANE
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## COMMITTEES FOR 1949-1950

The following is a list of committees for 1949-1950 and the names of committee members appointed to date. Any additions and changes that are made will be noted in the BULLETIN.

### COMMITTEE ON ADMINISTRATIVE LAW

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*(Continued on page 308)*

## THE EXECUTOR\*

By Edgar A. Guest

**I** HAD a friend who died and he  
On earth so loved and trusted me  
That ere he quit this worldly shore  
He made me his executor.

*He tasked me through my natural life  
To guard the interests of his wife;  
To see that everything was done  
Both for his daughter and his son.*

*I have his money to invest  
And though I try my level best  
To do that wisely, I'm advised,  
My judgment oft is criticized.*

*His widow, once so calm and meek  
Comes, hot with rage, three times a week  
And rails at me, because I must  
To keep my oath, appear unjust.*

*His children hate the sight of me,  
Although their friend I've tried to be  
And every relative declares  
I interfere with his affairs.*

*Now when I die I'll never ask  
A friend to carry such a task  
I'll spare him all such anguish sore  
And leave a hired executor.*

\*

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*(Continued on page 310)*

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## EFFICIENT PROBATE PROCEDURE

*(Continued from page 290)*

must be submitted to the judge before the call of the 2:00 o'clock Special Calendar for at that call only those matters are granted which have previously been cleared. Otherwise, a further continuance must be had.

To assist the attorneys in clearing these matters for the Special 2:00 o'clock Calendar, a commissioner, with a shorthand reporter, sits in Department 4A on the morning of every court day from 9:30 A. M. to 11:30 A. M. The deposition of any necessary witness may be taken before the commissioner at that time. Except in unusual cases, the deposition does not have to be written up but remains on the reporter's notebook, always available if it later becomes necessary to have it transcribed.

### CONTINUANCES WHERE CASES NOT CLEARED

When the Special 2:00 o'clock Calendar is called, all matters which are not in a condition to be granted and for which no request for a stated continuance has been made, will be automatically continued over to a second call one week later. The clerk sends a postcard to the attorneys who filed these petitions. If these matters have not been cleared by the second call, they are continued another week to a third call, but no postcard is sent on this second continuance. If the matter has not been cleared on the third call, it automatically goes off calendar and the attorney receives a postcard informing him of this fact.

Those probate petitions on which an appearance is usually necessary, such as the probate of a will or the appointment of a guardian, are set on the morning calendars. Even some of these matters can be disposed of under Section 1233, Probate Code, without a court hearing, and the morning calendar notes are also available to the attorneys two days before the call of the calendar.

Those petitions which are regularly set on the 2:00 o'clock Special Calendar can be originally set on a morning calendar if the attorney is reasonably sure that a court appearance will be necessary, and if before filing he has the petition endorsed designating a different calendar and initialed by a commissioner or judge.

The odd or even number on the probate file no longer has any significance. All probate matters go through Department

4. Department 5, presided over by the Honorable Alfred E. Paonessa, and Department 6, presided over by the Honorable John Gee Clark, are used for probate trials. Department 5 also hears probate law and motion matters in the mornings. All contested matters are set in one or the other of these two departments, the only exceptions being that those trials in which a jury is required and trials estimated to last more than ten days are sent to Department 1 for setting on the Master Calendar.

#### DIVISION OF LABOR IN COURT

Many attorneys have suggested that the judge in Department 4 is working too hard. Probate hearing departments are of necessity strenuous assignments, but the one judge in the Probate Master Calendar Department is no busier than each of the two judges were in the odd and even departments previously used, and a much needed court has been released for trial work.

The explanation of this anomaly is found in the work of the Probate Staff, consisting of three commissioners, three examiners, and several probate checkers. It is these capable persons who skillfully process the thousands of probate petitions which each year come through the local Superior Court. It has been



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estimated that without this staff six judges would have to be in continuous session to hear these matters. Moreover, the results would not be comparable because the judge on the bench could not do the complicated accounting work required, and prolonged court appearances would be a hardship on members of the bar.

The arbitrary division of the probate cases between two courts on the basis of odd and even numbers was at best an expediency resorted to at a particular period of the County's growth. As the probate employees provided by the 1947 Legislature became more proficient, it was obvious that the staff could function better under one court than it could under divided authority.

The service provided by the Probate Department is strictly a judicial function. It consists of giving the same attention to every petition as though a judge was available to devote at least a half hour to each matter. The system is entirely dependent on the skill and knowledge of competent attorneys and is not suitable for the use of laymen endeavoring to put through estates without the assistance of attorneys at law. Petitions filed by laymen in *propria persona* are practically unknown in the local Probate Court.

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### THREE LAWS OF PEACE

*(Continued from page 295)*

thou good and faithful servant: thou has been faithful over a few things, I will make thee ruler over many things." Look over the world and see how faithful we have been governmentally in the "few things," see how governments are doing even in the restricted realms of their own respective internal affairs. Or confine your critical examination to our own country, where we ought to have the best government in the world, and note carefully what you find.

#### THE BASIS FOR SKEPTICISM TOWARD WORLD GOVERNMENT

It is yet a sound principle that government ought not to be desired or promoted as an end in itself, but only as a necessary means, and only to the extent necessary for our common protection and advancement. The favorite analogy of the World Federalist makes effective forensic use of the federation of the original thirteen colonies under the Constitution of the United States. Let it suffice to only mention the vast differences between the two situations, the one that existed in relation to the thirteen colonies on our Atlantic seaboard, with their profound common heritage, in the latter part of the eighteenth century, and the one that exists in relation to all nations of the world in this first half of the twentieth century. At best the analogy has two edges. The original advocates of our federal government today would be appalled to see the extent to which it has established its offices and employees within the boundaries of the respective states and has taken jurisdiction over affairs essentially local to those states.

Does the analogy of the World Federalist take note of the ever-extending invasion by a federal government into the affairs of the federated states and their citizens? Does it take cognizance of the reasons why a federated government either fails or grows more and more ambitious in its usurpation of power? One of those reasons, speaking plainly, is lust for power, the disease of stateism; another is the strategy of organized self-seekers in going to the government most remote from home for action on matters in respect to which they could not fool the home folk; another is the ambition of persons, who don't have what it takes to stand up and fight evil in their own communities, to gratify their egos through officialdom in the more remote

government; another is that weakness of democracy which comes from the inability of industrious people to effectively watch all the governments which theoretically belong to them, the city government, the county government, the state government and the federal government. We have seen that in the far-flung domain of an ambitious federal government are many hiding places where plotters and wreckers stealthily can make a good deal of headway, even in the presence of our great news-gathering organizations and our specialists in government watching. It is not likely that any considerable part of us could permanently lose our freedom at the hands of a local or state government, but the loss of liberties through a federal government that controls the armed power of the nation or of the world is a practical possibility, which has been on the blueprints of plotters even in our own government.

#### **EVEN AT BIRTH**

Even in the birth of the United Nations, a curious interest in the internal affairs of nations was manifested. Embraced to the heart of the organization was a nation, than whose government, none in history ever was more ruthlessly and efficiently tyrannical, nor more ambitious for the aggressive conquest of other governments, while denied admission was the little country of Spain, which for many decades has sought no harm to or infiltration in any other nation, a country refused admission to the society of nations because the founders did not approve of her internal government, which, whether wisely or foolishly, was set up by a part of her own people as the one method they could understand of protecting their country from the aforementioned despotism. In this discrimination between a major and a minor despotism we see a profound failure to isolate and understand the one vital objective of a constitution for international peace.

#### **NATIONALISM AND INTERNATIONALISM ARE COMPLEMENTARY**

Question: In certain current literature nationalism is expressly or impliedly condemned as inconsistent with internationalism, as synonymous with parochialism in the sense of denoting ignorance, lack of vision, and a small sphere of interest. Nationalism is made to appear as an offense against the higher intellect and as an obstacle to a better world. Are these charges and insinu-

ations sound or superficial; are they a reflection of profound thought or of an affectation?

Does a good man ignore, depreciate or take less pride in his family merely because he lives in a great metropolis? If you wanted to have social influence, be a power or a leader in your community, would you suppress your individuality, ignore the necessities of your own well-being, neglect the development of your own personality, take no pride in yourself? Nationalism and internationalism are complementary. Each, to be genuine and effective, must have the other. Each person's first responsibility and opportunity are where he is. All the heavy problems of the world do not relieve the husband and father from the immediate duties of his own home; indeed, those duties are intensified by unfavorable conditions outside the threshold. From good homes, good and wise parents, must come persons sufficiently capable and enlightened to cope with the world's problems. From good communities and their schools, churches and other factors of wholesome influence must come persons basically qualified for statesmanship in wider realms. One who is not

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deeply concerned in the well-being of his own people cannot be genuinely concerned in the well-being of other peoples. One who is not loyal to his own family, his home town, his state, his country, has no capacity for loyalty to a cause to benefit all mankind. One who does not appreciate and cherish the memories and traditions of his own home and family, who does not love his own land and take pride in the achievements of its people, is wanting in basic qualifications for participation in constructive world affairs.

#### **THE MODERN PARADOX**

Paradoxical as it may seem, all our advances in travel, communication and other technological realms not only compel us to be international in our concerns, but also require that our nationalism be kept alive and alert if we would forestall ennui and not destroy the variety of human life. National traditions, customs, characteristics and pride, in so far as they are humane and are harmless to other people, and so long as they are cherished by a given people, ought to be respected and protected, even for the sake of variety if for no other reason. Through our differences we make contributions to one another's interests. Nature in all her phenomena shows that she abhors monotony. One of the urgent reasons for laying the foundations for world peace is that nations, as such, in their peculiarities and in the natural and traditional differences of genius among them, may be preserved, and that the world may have the benefit of the widest possible variety of cultures and talents.

#### **IN VICTORY, REGRESSION**


Among other compelling reasons for setting up the Constitutional Order for International Peace are these: (1) Although it is possible for us to subdue an adversary in war, or at least to prevent him from subduing us, it is not possible for us to win anything from a war. For us victory in war means only a loss, an added burden for our people. After the gargantuan cost and effort of conflict, we have as our reward of victory only a subjugated and mutilated nation to police and rehabilitate. (2) For us who, in part at least, are a Christian nation and who, in part at least, are a people aspiring to do good, to teach kindness and to be kind, no feature of war is more terrible or revolting than the things we have to do to win. Waging modern warfare is the supreme vulgarity, and while circumstances



may force it upon us as the honorable choice between two evil possibilities, we have it within our power to establish a regime of law under which, in time, circumstances that compel such a choice need not and will not arise.

### THE COSMIC DEMAND

Dr. William Ernest Hocking, professor emeritus of philosophy of Harvard University, once defined religion as a passion for right living in response to a cosmic demand. What is the supreme demand made upon us by a supreme God? According to Scripture, on the occasion of the birth of a divine ambassador



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to earth, a babe later to become the man Jesus, certain shepherds, abiding in a field and keeping watch over their flock by night, heard a multitude of the heavenly host praising God and saying: "Glory to God in the highest and on earth peace, good will toward men." Whether that legend is truth or fiction, it expresses, in the faith of millions, the cosmic demand. In the perfect harmony of the combined ideas it appeals to the mind as an ultimate. Of all the ideas and ideals and hopes from which a selection might have been made, which one most appropriately could have been placed alongside the idea first voiced in the song, "Glory to God in the highest!"? What idea will correlate with it? By what earthly means or condition can that conception be translated into human experience?

Suppose we try a few possibilities:

- "Glory to God in the highest . . ."
- and on earth, prosperity for all!"
- and on earth, happiness for all!"
- and on earth, health, happiness and prosperity!"
- and on earth, democracy for all peoples!"
- and on earth, the four freedoms!"
- and on earth, free public schools and full churches!"
- and on earth, a 30-hour week, and a months' vacation with pay!"

We need not continue. Our auricular perception, if not our reasoning, tells us that none of the suggested associates is a fitting companion for the splendid and sublime "Glory to God in the highest!"

When the Messenger became a man and He spoke to the people from the Mount, He Himself said, "Blessed are the peacemakers, for they shall be called the children of God."

THE END

## SILVER MEMORIES

*(Continued from page 302)*

confer with Franklin D. Roosevelt, chairman of the committee for Smith's nomination for the presidency. William G. McAdoo will arrive soon. His campaign manager is David L. Rockwell. Cordell Hull is the national Democratic Chairman.

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